

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1019

Introduced by Haar, 21.

Read first time January 20, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to recreational trails; to provide for
2 trails dispute boards to decide disputes concerning
3 recreational trails between county boards and natural
4 resources districts boards.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) (a) In a county where a natural resources
2 district is proposing to develop a recreational trail and a
3 majority of the county board of such county has a dispute regarding
4 the alignment or right-of-way acquisition of such recreational
5 trail, the county board may, by majority vote, create a trails
6 dispute board to resolve the dispute as provided in this section
7 and shall notify the Governor and the natural resources district
8 of the creation of a trails dispute board. The trails dispute
9 board, when appointed and convened, shall continue in existence
10 only until it has resolved a dispute referred to it pursuant to
11 this section unless it is reconvened under subsection (5) of this
12 section. A person is not eligible for membership on the trails
13 dispute board if a decision to be made by the board would or could
14 cause financial benefit or detriment to the person, a member of his
15 or her immediate family, or a business with which the person is
16 associated, unless such benefit or detriment is indistinguishable
17 from the effects of such action on the public generally or a broad
18 segment of the public. The trails dispute board shall be subject to
19 the Open Meetings Act.

20 (b) Within forty-five days after the Governor and the
21 natural resources district are notified by the county board of the
22 creation of a trails dispute board:

23 (i) The natural resources district board shall appoint
24 two of its members to serve on the trails dispute board;

25 (ii) The county board shall appoint two of its members to

1 serve on the trails dispute board; and

2 (iii) The Governor shall appoint three members to serve
3 on the trails dispute board who do not reside in the affected
4 county, selected from a list of persons willing and able to serve
5 provided to the Governor by the State Highway Commission.

6 (c) The trails dispute board shall convene within fifty
7 days after the notice referred to in subdivision (1)(b) of this
8 section. Action may be taken by affirmative vote of four of the
9 board's members. Upon being convened, the board shall select a
10 chairperson from its membership and appoint the appropriate staff
11 to assist the board in fulfilling the board's responsibilities.

12 (2) Within fifteen days after being convened, the trails
13 dispute board shall select a mediator. The four members of the
14 trails dispute board representing the natural resources district
15 board and the county board shall meet with the mediator selected
16 and have forty-five days after the first meeting within which to
17 mediate the dispute. If mediation is successful, the agreement
18 shall be implemented by the natural resources district board and
19 the county board.

20 (3) (a) If mediation under subsection (2) of this section
21 is unsuccessful, the county board shall present its dispute and the
22 natural resources district board shall present its plan regarding
23 the proposed recreational trail to the trails dispute board. The
24 county board and the natural resources district board may provide
25 the trails dispute board with comments regarding the plan or

1 dispute of the other within fourteen days after the presentations
2 to the trails dispute board. The trails dispute board shall have
3 forty-five days after the presentations to develop a solution
4 to the dispute regarding the proposed recreational trail. The
5 trails dispute board shall convene at least one public hearing
6 to take testimony on the proposed solution within the forty-five
7 day period. Notice of the hearing or hearings shall be published
8 in a newspaper or newspapers of general circulation within the
9 affected area. The cost of publishing the notice shall be shared
10 by the county board and the natural resources district board. All
11 interested persons may appear at the hearings and present testimony
12 or provide other evidence relevant to the issues being considered.

13 (b) The solution of the trails dispute board to the trail
14 dispute shall be one of the following:

15 (i) Allow the natural resources district board to go
16 forward with its plan regarding the proposed recreational trail;

17 (ii) Choose an alternate route selected by the trails
18 dispute board; or

19 (iii) Prohibit the natural resources district board from
20 using eminent domain on part or all of the proposed recreational
21 trail route.

22 (4) After the forty-five day period referred to in
23 subsection (3) of this section, the trails dispute board has
24 fifteen days to render a final written decision.

25 (5) If problems or unexpected situations arise in

1 implementing the trails dispute board's plan, the trails dispute
2 board may be reconvened to address the situation by affirmative
3 vote of the natural resources district board or the county board.
4 The trails dispute board may address the situation by vote of
5 the trails dispute board or, upon the affirmative vote of three
6 members, shall repeat the procedure provided in this section
7 beginning with mediation.

8 (6) All expenses incurred by the trails dispute board,
9 including the cost of hiring a mediator, shall be shared jointly by
10 the county board and the natural resources district board.

11 (7) For purposes of this section, recreational trail
12 means a trail developed for recreational purposes that is not
13 constructed in conjunction with a water project of a natural
14 resources district.